

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1181 be amended to read as follows:

- 1 Page 1, line 3, before "utility"" insert "**telecommunications**".
- 2 Page 1, line 3, delete "refers to" and insert "**means**".
- 3 Page 1, line 4, delete "public utility" and insert "**a**
- 4 **telecommunications provider (as defined in IC 8-1-29-3)"**
- 5 Page 1, between lines 4 and 5, begin a new paragraph and insert:
- 6 "**(b) As used in this section, "order" refers to an order, a**
- 7 **decision, a decree, a rule, a direction, a demand, or a requirement**
- 8 **of the commission."**
- 9 Page 1, line 5, delete "(b)" and insert "**(c)**".
- 10 Page 1, line 6, before "utility" insert "**telecommunications**".
- 11 Page 1, line 8, after "jurisdiction;" insert "**or**".
- 12 Page 1, line 9, delete "determination, requirement" and insert
- 13 "**part of an order;**"
- 14 Page 1, delete lines 10 through 13.
- 15 Page 1, line 15, delete "(c) The" and insert "**(d) Except as**
- 16 **provided in subsection (h), the**".
- 17 Page 2, line 2, after "or" insert "**noncompliance**".
- 18 Page 2, delete lines 3 through 11.
- 19 Page 2, line 12, delete "(3)" and insert "**(2)**".
- 20 Page 2, line 12, before "utility" insert "**telecommunications**".
- 21 Page 2, line 14, delete "(4)" and insert "**(3)**".
- 22 Page 2, line 16, delete "(5)" and insert "**(4)**".
- 23 Page 2, line 16, before "utility" insert "**telecommunications**".
- 24 Page 2, delete lines 19 through 33.
- 25 Page 2, line 34, delete "(g)" and insert "**(e)**".
- 26 Page 2, delete lines 40 through 42.

Page 3, delete lines 1 through 5.

Page 3, line 6, delete "direct" and insert **"deposit"**.

Page 3, line 7, delete "as follows:" and insert **"in the commission public utility fund account established under IC 8-1-6."**.

Page 3, delete lines 8 through 31.

Page 3, line 32, delete "(m) The" and insert **"(g) Except as provided in subsection (h), the"**.

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"(h) If, after a hearing conducted under subsection (c), the commission finds that a telecommunications utility has violated:

(1) IC 8-1-29-5; or

(2) rules adopted under IC 8-1-29-6;

the commission may impose only the civil penalties allowed under IC 8-1-29-7.5."

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 3. IC 8-1-1-115.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:Sec. 115.2. (a) As used in this section, "standard of service" refers to any:

(1) rule, standard, or order adopted or approved by the commission; or

(2) agreement between a telecommunications utility and the commission;

concerning the provision of telecommunications service by a telecommunications utility.

(b) As used in this section, "telecommunications service" has the meaning set forth in IC 8-1-29-4.

(c) As used in this section, "telecommunications utility" means a telecommunications provider (as defined in IC 8-1-29-3) over which the commission has jurisdiction.

(d) A violation of any standard of service by a telecommunications utility is prima facie evidence of the inadequacy of the telecommunications service provided by the telecommunications utility.

(e) If after notice and hearing the commission determines that a telecommunications utility has violated any standard of service, the commission shall impose a civil penalty in an amount determined by the commission. A civil penalty imposed under this section may be in an amount of up to three (3) three times the amount of the maximum civil penalty allowed under section 115.1(d) of this chapter.

(f) The secretary of the commission shall deposit any civil penalties collected under this section in the commission public utility fund account established under IC 8-1-6.

(g) The authority granted under this section is in addition to, and may be exercised independently of, any other authority granted under this article."

Page 3, line 35, delete "IC 8-1-2-128" and insert **"IC 8-1-2-115.3"**.

- 1 Page 3, line 37, delete "128" and insert **"115.3"**.
- 2 Page 3, line 37, delete ""utility" refers to a" and insert
- 3 **""telecommunications provider" has the meaning set forth**
- 4 **in IC 8-1-29-3."**
- 5 Page 3, delete line 38, begin a new paragraph and insert:
- 6 **"(b) As used in this section, "telecommunications**
- 7 **service" has the meaning set forth in IC 8-1-29-4.**
- 8 **(c) As used in this section, "telecommunications utility"**
- 9 **refers to a telecommunications provider over which the**
- 10 **commission has jurisdiction."**
- 11 Page 3, line 39, delete "(b)" and insert **"(d)"**.
- 12 Page 3, line 40, delete "utility" and insert
- 13 **"telecommunications"**.
- 14 Page 4, line 1, after "directs a" insert
- 15 **"telecommunications"**.
- 16 Page 4, line 1, delete "utility service" and insert
- 17 **"telecommunications service."**
- 18 Page 4, line 2, after "the" insert **"telecommunications"**.
- 19 Page 4, line 2, after "provide" insert
- 20 **"telecommunications"**.
- 21 Page 4, line 4, delete "(c)" and insert **"(e)"**.
- 22 Page 4, line 4, before "utility" insert
- 23 **"telecommunications"**.
- 24 Page 4, line 5, delete "(b)" and insert **"(d)"**.
- 25 Page 4, line 5, before "utility" insert
- 26 **"telecommunications"**.
- 27 Page 4, between lines 7 and 8, begin a new paragraph and
- 28 insert:
- 29 **"(f) If a telecommunications utility is unable to comply**
- 30 **with subsection (d) because of the failure of another**
- 31 **telecommunications provider to provide:**
- 32 **(1) adequate network access; or**
- 33 **(2) other wholesale services;**
- 34 **needed by the telecommunications utility to provide**
- 35 **telecommunications service, the telecommunications utility**
- 36 **may recover from the other telecommunications provider**
- 37 **the amount of any civil penalties imposed on the**
- 38 **telecommunications utility under section 115.1 of this**
- 39 **chapter. The remedy provided under this subsection is in**
- 40 **addition to any other remedy available to the**
- 41 **telecommunications utility by law.**
- 42 SECTION 5. IC 8-1-2.6-9 IS ADDED TO THE INDIANA CODE
- 43 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 44 1, 2001]: Sec. 9. (a) As used in this section, "local exchange

1 telephone company" has the meaning set forth in IC 8-1-2.8-8.

2 (b) As used in this section, "telecommunications provider" has
3 the meaning set forth in IC 8-1-29-3.

4 (c) As used in this section, "telecommunications service" has
5 the meaning set forth in IC 8-1-29-4.

6 (d) As used in this section, "telecommunications utility" refers
7 to a telecommunications provider over which the commission has
8 jurisdiction.

9 (e) In order to promote competition in the provision of
10 telecommunications service, the commission shall adopt rules to
11 ensure that a local exchange telephone company is accorded rights
12 to the following:

13 (1) Timely interconnections of acceptable quality with other
14 telecommunications providers.

15 (2) Freedom from acts or omissions by another
16 telecommunications provider that impair the speed, quality,
17 or efficiency of telecommunications services used or
18 provided by the local exchange telephone company.

19 (3) The timely honoring of the local exchange telephone
20 company's requests of another telecommunications provider
21 for information:

22 (A) regarding the technical design and features,
23 geographic coverage, and traffic capabilities of a local
24 exchange network; or

25 (B) necessary for the design of equipment.

26 (4) The timely provision of access in connecting to a local
27 exchange network when a product or service offered by the
28 local exchange telephone company requires novel or
29 specialized access requirements.

30 (5) Reasonable access to the networks of other
31 telecommunications providers.

32 (6) Freedom from acts or omissions by another
33 telecommunications provider that substantially impair the
34 ability of the local exchange telephone company to provide
35 service to the local exchange telephone company's customers.

36 (7) Full compliance with and timely implementation of
37 interconnection agreements entered into by:

38 (A) the local exchange telephone company; and

39 (B) another telecommunications provider;

40 under the federal Telecommunications Act of 1996, in a
41 manner that avoids unreasonable delays and ensures the
42 timely availability of telecommunications services to
43 consumers.

44 (8) Full compliance by other telecommunications providers
45 with the terms and conditions of the commission's orders
46 implementing the federal Telecommunications Act of 1996.

47 (f) If after notice and hearing the commission determines that
48 a telecommunications provider has violated a rule adopted by the
49 commission under subsection (e), the commission shall impose a
50 civil penalty in an amount determined by the commission. A civil

1 penalty imposed under this section may be in an amount of up to
2 three (3) three times the amount of the maximum civil penalty
3 allowed under IC 8-1-2-115.1(d).

4 (g) The secretary of the commission shall deposit any civil
5 penalties collected under this section in the commission public
6 utility fund account established under IC 8-1-6.

7 (h) The authority granted under this section is in addition to,
8 and may be exercised independently of, any other authority
9 granted under this article."

10 Page 4, delete lines 8 through 31.

11 Renumber all SECTIONS consecutively.

(Reference is to HB 1181 as printed February 9, 2001.)

Representative BEHNING